

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA
8

9 LVDG SERIES 125, established under)
10 LVDG LLC, a Nevada series limited-liability)
company,)

11 Plaintiff,)

12 vs.)

13 FEDERAL HOME LOAN MORTGAGE)
14 CORPORATION, a federally chartered)
corporation, *et al.*,)

15 Defendants.)
16

3:13-cv-00503-LRH-WGC

ORDER

Re: ECF No. 93

17
18 Before the court is the motion of Wells Fargo Bank, N.A., (“Wells Fargo”) to stay discovery in
19 this litigation arising from a foreclosure sale of the subject property by The Meadows Homeowners
20 Association (“HOA”). (ECF No. 93.) The entity which purchased the subject property at the HOA
21 foreclosure, Plaintiff LVDG Series 125 (“LVDG”), opposes the entry of a stay of discovery.
(ECF No. 94.)¹

22 Wells Fargo seeks the stay on the grounds that the Ninth Circuit Court of Appeals declared the
23 statutory scheme (NRS Chapter 116.3116 *et seq.*) on which the HOA sale was predicated denied the
24 lender due process with regard to notice provided to the lender concerning the sale. *Bourne Valley Court*
25 *Trust v. Wells Fargo, N.A.*, 832 F.3d 1154 (2016).² Wells Fargo filed a motion for summary judgment
26

27
28 ¹ The background of the HOA sale and the parties’ respective positions in this lawsuit are not in dispute.
See, ECF Nos. 93, 94.

² A petition for a writ of certiorari to the U.S. Supreme Court has been docketed but not yet acted upon.

1 because it contends its motion, if granted, “...will dispose of all claims and counterclaims.” (ECF No.
2 93 at 4.)³ Thus, Wells Fargo seeks a stay of discovery until its motion is resolved.

3 LVDG opposes the stay on grounds that the Nevada Supreme Court determined that because
4 there was no “state action” with respect to a similar HOA sale, Chapter 116 did not deny the lender due
5 process. (ECF No. 94 at 4, citing *Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home*
6 *Mortgage, a Div. of Wells Fargo Bank, N.A.*, 133 Nev. Adv. Op. 5, ____ P.3d ____, 2017 WL 398426
7 (Jan. 26, 2017). LVDG argues that “the Nevada Supreme Court has overruled *Bourne Valley*” and
8 forecasts that if the U.S. Supreme Court accepts the pending writ that “*Bourne Valley* will almost
9 certainly be reversed.” (ECF No. 94 at 4.)

10 ANALYSIS

11 There is no dispute that district courts have wide discretion in controlling discovery. *Tradebay,*
12 *LLC v. Ebay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). Discovery may be stayed if the potentially
13 dispositive motion has merits sufficient to limit discovery in order to be able to “accomplish [] the goals
14 of Rule 1.” *Tradebay* at 603.

15 The court is faced with an apparent conflict between decisions of the Ninth Circuit Court of
16 Appeals and the Nevada Supreme Court. If the Supreme Court accepts certiorari, any conflict between
17 these decisions will likely be resolved by the U.S. Supreme Court. Until then, however, this court feels
18 constrained to follow the conclusion of the Ninth Circuit in *Bourne Valley*. See, e.g., *Thunder*
19 *Properties v. Wood*, 3:14-cv-00068-RCJ-WGC, 2017 WL 777183, at *4 (D. Nev. Feb. 28, 2017);
20 *Nationstar Mortgage LLC v. LVDG LLC*, 2:15-cv-01636-RCJ-CWH, 2017 WL 879280, at *3 (D. Nev.
21 March 6, 2017).

22 ///

23 ///

24 ///

25 ///

26 ///

27
28 ³ Wells Fargo’s motion for summary judgment was just filed on June 8, 2017. (ECF No. 92.) No responsive memoranda has yet been filed.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CONCLUSION

Wells Fargo Bank, N.A.'s Motion for Stay of Discovery Pending the Resolution of the Motion for Summary Judgment (ECF No. 93) is **GRANTED**. The deadlines set forth in the Scheduling Order (ECF No. 89) are vacated. Discovery shall be stayed until further order of the court.

IT IS SO ORDERED.

DATED: June 21, 2017.



WILLIAM G. COBB
UNITED STATES MAGISTRATE JUDGE